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In re Patent No. 7,488,343
Issued: February 10, 2009
Application No. 10/664,679
Filed: September 16, 2003
Attorney Docket No. 10527-0462001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT filed on October 29, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 762 days to 1085 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighty-three (1083) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 16, 2006 and ends on October 29, 2007, the day before the RCE was filed, and the B delay considering the 87 days of overlap is 408 (not 410 days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 321 days. As such, the patent term adjustment is 1083, not 1085 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the

term of the above-identified patent is extended or adjusted by **one thousand eighty-three (1083) days.**

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,488,343 B2
DATED : February 10, 2009
INVENTOR(S) : Barry O'Brien

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (762) days

Delete the phrase "by 762 days" and insert – by 1083 days--